THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO: 21036 of 2005

Dated: 03-03-2006

Between:

M/s. Rajalakshmi Auto Service,

HPC, Retail Outlet, rep., by its

Partment K.Nagendra Reddy,

Visakhapatnam.

..... PETITIONER

AND

Hindusthan Petroleum Corporation Ltd.,

Visakha RegionalOffice,

Petrol Nilayam,rep., by its

Senior RegionalManager, Retail.

.....RESPONDENTS

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION No.21036 of 2005

O R D E R:

The petitioner is the dealer of the respondent-Hindusthan Petroleum Corporation Limited for sale of High Speed Diesel (HSD) at Pisinikada on the national highway No.5, Anakapalle, Visakhapatnam District.

It is stated that the petitioner outlet was inspected by the officials of the respondent-corporation on 22-09-2005 and samples of HSD were drawn from the two underground tanks. When the samples were tested in the Mobile Lab, it was found that the sample from tank No.1 met the specifications, but the sample taken from tank No.2 failed to meet the specifications. In pursuance thereof the petitioner was directed to stop the sales in the outlet until further orders. Aggrieved by the said action of the respondent-corporation, this writ petition is filed seeking a declaration that the action of the respondent-corporation in stopping the sales of the HSD in the underground tanks situated in the petitioner outlet pursuant to the inspection dated 22-09-2005 is arbitrary and illegal.

This Court, while directing Rule Nisi by order dated 27-09-2005, in W.P.M.P.No.26910 of 2005 directed the respondent that the petitioner shall be permitted to operate the sales through tank No.1, however the seal put to tank No.2 shall remain until further action by the respondent. The said order was passed having observed that the Mobile Lab Test report dated 22-09-2005 discloses that out of the samples taken from the two tanks of H.S.D., maintained by the petitioner, the sample drawn from tank No.1 met the standard specifications and that the suspicion was only about the quality of the H.S.D. in tank No.2.

The respondent-corporation filed a counter affidavit stating that as per the reports received from the authorized laboratory, a show cause notice was already issued to the petitioner to show cause as to why disciplinary action should not be taken against him and the further enquiry is still pending.

The learned counsel for the petitioner does not dispute the same and states that the petitioner has also submitted his explanation.

Since the enquiry is pending, it is open to the respondent-corporation to pass appropriate orders in accordance with law after considering the explanation submitted by the petitioner.

So far as the impugned action of the respondents in directing the petitioner to stop the sales from the outlet is concerned, even the counter affidavit shows that the allegations are only in respect of the stock in the underground tank No.2. That apart the petitioner's licence is also subsisting. Hence, it is just and proper to permit the petitioner to operate sales through tank No.1. Accordingly, without expressing any opinion on merits of the case,
I deem it appropriate to dispose of the writ petition granting liberty to the respondent-corporation to proceed with the enquiry and to pass appropriate orders in accordance with law. Till such orders are passed, in terms of the interim order dated 27-09-2005 passed by this Court, the petitioner shall be permitted to operate sales through tank No.1.

Accordingly, the writ petition is disposed of. No costs.

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G.ROHINI,J

Dated: 03-03-2006

Klp/ghn